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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,980	09/24/2003	Tibor Farkas	038190/256280	5790

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,980

Applicant(s)

FARKAS ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed June 22, 2006. In view of Applicant's response, the Examiner has withdrawn the rejection in view of Fisher (US 6,500,507). However, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-9 and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 6,187,411) in view of Steeghs et al. (US 2003/0037361). Palmer discloses a sandwich panel having substantially reduced damage propagation from impact and an improved tolerance for damage caused by impact from a foreign object (abstract and col 1, ln 11-15). The panel comprises a closed cell polymeric foam core and outer skins comprising layers of woven Kevlar (col 3, ln 6-21 & col 4, ln 43-60). Furthermore, the woven Kevlar outer skins of Palmer (col 3, ln 6-21 & col 4, ln 43-60) are considered to be ballistic resistant. With regard to Applicant's disclosure of a hydrazine fuel tank, fuel system of a vehicle, and hydraulic system of a vehicle, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Palmer discloses the claimed invention except for the teaching that the first layer comprises a honeycomb cross-section.

Steeghs et al. (US 2003/0037361) discloses a ballistic vest containing a stack of fabrics wherein the outer fabric is a loose fabric which can be a honeycomb weave [0011 and claim 1]. It would have been obvious to one having ordinary skill in the art to use Fisher's teaching of an outer fabric comprising a honeycomb weave as one of the woven outer skins of Palmer, motivated by the desire to create a lightweight impact resistant composite that has sufficient resistance to deformation in small areas while maintaining flexibility and isolating and dissipating shock.

Regarding claims 7, 9, 14, and 15, Palmer and Steeghs et al. disclose the claimed invention except for the teaching that the first and second fabric layers are capable of absorbing up to about 30,000 ft-lbs of kinetic energy without rupture and that the insulation is resistant to penetration by a fragment having a kinetic energy greater than about 1700 ft-lbs or greater than about 3500 ft-lbs.

Although Palmer and Steeghs et al. do not explicitly teach the claimed kinetic energy absorbance and penetration resistance, it is reasonable to presume that these properties are inherent to the panel of Palmer. Support for said presumption is found in the use of like materials (i.e. outer woven Kevlar layers with honeycomb structure and closed-cell polymeric foam core). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of first and second fabric layers that are capable of absorbing up to about 30,000 ft-lbs of kinetic energy without rupture and a penetration resistance of a fragment having a kinetic energy greater than about 1700 ft-lbs or greater than about 3500 ft-lbs, would obviously have been present once the Palmer and Steeghs et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

4. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 6,187,411) and Steeghs et al. (US 2003/0037361), as applied to claim 1 above, and further in view of Brink et al. (US 3,381,420). Palmer and Steeghs et al. disclose the claimed invention except for the teaching that the material further comprises a glass fabric layer and a radiation control film layer.

Brink et al. (US 3,381,420) discloses an insulation material used to insulate tanks, pipes, and automobiles (col 3, ln 72-75 and col 4, ln 1-2). The structural material contains a flexible film that is used for facing the core, which can be a metallized polyester. The preferred metallizing material is aluminum (col 3, ln 24-32). The structural material further contains one or more layers of woven fiberglass cloth to increased the impact resistance of the structural material (col 2, ln 25-30). It would have been obvious to have used Brink's metallized polyester film layer and woven fiberglass cloth in the panel of Palmer and Steeghs et al., motivated by the desire to create a panel having increased resistance to impact and damage and having increased strength.

Response to Arguments

5. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR *Ula*

Ula Ruddock
Ula C. Ruddock
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